

# ***APPENDIX D***

## **SCOPING REPORT**

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## **APPENDIX D Scoping Report**

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### **NOTE TO READERS:**

This Scoping Report reflects the state of the Headwaters Project as of May 1997. Certain topics which the Scoping Report stated would be addressed in the draft EIS/EIR have not been addressed either because certain actions did not become part of the project (e.g. mineral assests exchange, Federal land exchange, helicopter logging) or because information was not available to render an environmental impact analysis (e.g. gene flow, genetic effective size populations).

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***SCOPING REPORT***

**ENVIRONMENTAL IMPACT STATEMENT/  
ENVIRONMENTAL IMPACT REPORT**

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for the

**PALCO  
HEADWATERS FOREST LAND EXCHANGE,  
SUSTAINED YIELD PLAN, AND  
HABITAT CONSERVATION PLAN**

prepared by

**UNITED STATES FISH AND WILDLIFE SERVICE  
and  
CALIFORNIA DEPARTMENT OF FORESTRY AND  
FIRE PROTECTION**

in cooperation with

**National Marine Fisheries Service  
United States Bureau of Land Management  
United States Forest Service  
United States Environmental Protection Agency  
California Department of Fish and Game  
California Regional Water Quality Control Board-North Coast Region**

MAY 1997

## SUMMARY

The U.S. Fish and Wildlife Service (FWS) and California Department of Forestry and Fire Protection (CDF), as lead agencies, are preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for their respective actions. These actions are associated with furthering the purposes of the September 28, 1996, Agreement (the Agreement) among the United States, the State of California, and Maxxam Incorporated (Maxxam) and its subsidiary, the Pacific Lumber Company (PALCO). The EIS/EIR provides a basis for informed decision-making in regard to alternatives for the Habitat Conservation Plan (HCP), Sustained Yield Plan (SYP), land exchanges, and other resource issues.

The lead and cooperating agencies began the EIS/EIR process by conducting six scoping meetings and soliciting written and oral comments from the public and responsible agencies. About 2,690 written comments and 520 oral comments were received during the formal scoping period. About 1,970 written comments were received prior to and after the formal scoping period. Written and oral comments were reviewed and assigned comment codes corresponding to the meaning of the comment. These codes were developed from the comments, with new codes added when new issues, concerns, alternatives, or recommendations were raised during the comment review.

The comments addressed the following topics:

### **General**

- Protect 60,000 acres and all 6 groves
- Debt for nature swap

### **Abiotic**

- Air quality
- Soils
- Landslide and flood potential
- Water quality
- Watershed analysis

### **Biotic**

- Forest fragmentation
- Forest health
- Habitats
- Plants
- Wildlife
- Biodiversity
- Fisheries
- Ecosystem sustainability

### **Human Environment**

- Social
- Economic
- Cultural resources
- Visual resources
- Drinking water quality

### **Management Practices**

- Habitat Conservation Plan
- Sustained Yield Plan
- Reserve impacts
- Adjacent property impacts

### **Reliability of Data Analyses**

- Time frame for data gathering and analysis
- Reliability of data sources

### **Asset Exchange**

- Unknown value of proposed property
- Unknown value of ecological assets
- Conflicting land exchanges
- Oil and gas leases

### **Public Trust**

### **NEPA**

- Proposed alternatives
- Other alternatives

### **Implementation**

- Compliance monitoring
- Adaptive management techniques
- “No Surprises” clauses

- Mitigation
- Funding

#### **Public Involvement**

- Peer review
- Public comment period

#### **Other Elements - Private Property Rights**

### **Agency Comments**

All the issues associated with the comments received during scoping are addressed in this report. The EIS/EIR will report the expected environmental impacts associated with proposed actions, and will use scoping comments related to environmental impacts in the development of the document. This scoping report identifies those environmental impact issues raised during scoping which will be addressed in detail in the EIS/EIR and those which will not. It should be noted that the EIS/EIR document is not a forum used to debate public policy or legal issues; rather it is a planning document used to disclose the environmental effects associated with implementing any one of the various alternative proposed courses of action. Therefore comments which will not be addressed in detail in the EIS/EIS are policy or legal issues, issues outside the scope of the environmental analysis, or topics too remote or speculative to warrant analysis as part of the environmental impact analyses.

## **1.0 INTRODUCTION**

The U.S. Fish and Wildlife Service (FWS) and California Department of Forestry and Fire Protection (CDF) are preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for their respective actions. These actions are associated with furthering the purposes of the September 28, 1996, Agreement (the Agreement) among the United States, the State of California, and Maxxam Incorporated (Maxxam) and its subsidiary, the Pacific Lumber Company (PALCO).

### **1.1 FACTORS LEADING TO THE AGREEMENT**

PALCO has been managing forest lands in Humboldt County, California, for over 100 years. In 1986, Maxxam purchased PALCO, once a family business, including its name, facilities, and approximately 200,000 acres of timberland.

A 5,625-acre portion of PALCO's property includes the largest patches of old-growth redwood forest on private land, including the 3,000-acres Headwaters grove. This area and other PALCO old-growth redwood forests are important habitat for the marbled murrelet (*Brachyramphus marmoratus marmoratus*), listed in 1992 as threatened under the federal and state Endangered Species Acts. PALCO lands also include habitat for coho salmon (*Oncorhynchus kisutch*), which were federally listed as threatened in April 1997.

Removal of, or impacts to occupied habitat for a federally listed species constitutes "take" under the Endangered Species Act (ESA). Thus, PALCO cannot harvest old-growth redwood trees which currently provide occupied habitat for marbled murrelet or along streams until it applies for and obtains from FWS (for wildlife or resident fish) and National Marine Fisheries Service (NMFS; for salmon or steelhead) Incidental Take Permits (ITPs), under Section 10 of the ESA. To obtain an ITP, PALCO must prepare an approved Habitat Conservation Plan (HCP) to minimize and mitigate for the incidental take. The California Department of Fish and Game must consult with FWS and NMFS regarding the conditions in the HCP that relate to state-listed species.

California's Forest Practice Rules, Section 913.11, require PALCO to achieve the goal of maximum sustained production of high quality timber products by submitting a Sustained Yield Plan (SYP) that CDF subsequently approves. Among other things, the SYP must allow for the protection of threatened and endangered species. PALCO submitted its SYP to CDF on December 17, 1996. CDF must consult with the California Department of Fish and Game regarding project effects on endangered species and appropriate mitigation, per Fish and Game Code Section 2090.

Public controversy and legal proceedings involving PALCO's logging of its timberlands, particularly old-growth redwoods, have occurred in recent years. During the same time, at least eight unsuccessful attempts have been made to acquire the Headwaters grove, or to regulate PALCO's logging in order to preserve it and other PALCO old-growth redwood areas.

## **1.2 ENVIRONMENTAL COMPLIANCE FOR THE AGREEMENT**

The ongoing public controversy, the need for ITPs and a SYP, and the desire to resolve these issues, led to the development of the Agreement. In brief, the Agreement provides for the following:

- Transfer of Headwaters Forest and other timberlands to public ownership in exchange for other property and assets;
- Preparation of an approved HCP by PALCO for its entire property, and issuance of the ITPs by FWS and NMFS; and
- Approval of a SYP by CDF for PALCO's timberlands that remain in production after the land exchange.

Because the issuance of an ITP and the exchange of federal lands are federal actions, the process is subject to review under the National Environmental Policy Act (NEPA). An EIS is a document required of federal agencies under NEPA for major projects or legislative proposals significantly affecting the quality of the human environment. The EIS is a tool for decision making that describes reasonable alternative actions and the positive and negative effects of those actions.

Approval of the SYP is a California action requiring environmental review. Typically, the SYP review is conducted according to the California Forest Practice Rules in a process similar to preparing an EIR under the California Environmental Quality Act (CEQA). This CEQA functional equivalent for the state and private forest lands was authorized and the process established under the Z'berg-Nejedly Forest Practices Act of 1973. Since an EIR and EIS are similar in content and process, and more easily understood if prepared together, the California and the federal agencies have entered into an agreement to prepare a single federal/state environmental document called a joint EIS/EIR. Impacts considered in an EIS/EIR can extend beyond impacts on listed species to include impacts on the human environment.

To assist in the temporary expansion of workload and to provide technical assistance in preparing the EIS/EIR, the lead and cooperating agencies retained Foster Wheeler Environmental Corporation to review and categorize the scoping comments received, and prepare the initial draft of this report. The comments were reviewed for consideration in the EIS/EIR by Foster Wheeler Environmental and the agencies. For the EIS/EIR, Foster Wheeler Environmental is gathering pertinent data, assessing the reliability of the data, analyzing useful information, and developing the Draft EIS/EIR for review by the agencies and PALCO. Foster Wheeler Environmental will then revise the draft in response to agency comments before public release.

A public scoping process is an integral part of the preparation of an EIS in accordance with NEPA guidance. Public scoping activities for the EIS were conducted to solicit comments from various federal, state, and local agencies, as well as interested organizations and individuals, and to incorporate the most accurate and current environmental information and public opinion into the planning and decision-making processes. This scoping report contains a description of the process used to identify public and agency issues and concerns, and a summary of the issues and concerns identified during the scoping process.

## **2.0 PURPOSE OF AGENCY ACTIONS**

### **2.1 RESPOND TO THE INCIDENTAL TAKE PERMIT APPLICATION**

The ESA has established protection for species listed as threatened and endangered, and provides for authorization of certain impacts where such impacts comply with criteria that are established by the ESA. The most fundamental protection provided by the ESA is the prohibition against take of listed species.

“Take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to engage in any such conduct [ESA, Section 3(19)]. “Incidental take” is defined as take that is incidental to and not the purpose of the carrying out of an otherwise lawful activity [Section 10(a)]. When incidental take may

result from the actions of state or local governments, corporations, or private individuals, Section 10 of the ESA directs the Secretary of Interior or the Secretary of Commerce to issue permits for incidental take when certain conditions are met.

These conditions are described in the ESA and its implementing regulations, including the requirement that the incidental take must include an HCP. The ESA describes the information needed to accompany the application and criteria under which the Secretaries of Interior and Commerce will issue the ITPs. One of those conditions is that the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. The Secretaries of Interior and Commerce have delegated the evaluation of applications and the issuance of these permits to agencies within their departments, namely, the FWS and NMFS.

PALCO, FWS, and NMFS, have been negotiating an HCP that may lead to the issuance of an ITP for listed species, including northern spotted owls and marbled murrelets, and for unlisted species agreements for species proposed for future listing, including coho salmon.

### **2.2 DETERMINE THE CONFORMANCE OF THE SYP**

The property proposed to be retained by PALCO after the proposed land exchanges are completed are zoned as Timberland Production Zones and under state law their primary purpose is timber production. In enacting the Z'berg-Nejedly Forest Practices Act, California Public Resources Code Sections 4511 et seq., the California Legislature declared an intent to ensure that where feasible, the productivity of timberlands is restored, enhanced, and maintained, and further that the goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment (Pub. Res. Code Section 4513).

PALCO is required to prepare a SYP under the California Forest Practice Rules (FPR) adopted by the California Board of Forestry pursuant to the Forest Practice Act. Sections 1091.1 through 1091.14 of the

FPR in Title 14 of the California Code of Regulations describe the requirements for preparation and use of SYPs. Essentially, the FPR require that individuals or companies that submit timber harvest plans (THPs) must demonstrate that their proposed timber operations will not decrease the sustainable productivity of their forested property. The SYP is a recent requirement and few SYPs have been completed.

A SYP is a comprehensive, ecosystem-oriented forest management plan. It covers a full range of environmental concerns, as well as traditional harvest scheduling for entire forests and/or land holdings. The plan is predicated on a planning horizon of 100 years; however, the SYP is effective for no more than 10 years before it must be updated and resubmitted for review and approval again [FPR Section 4551.3(a)]. A SYP consists of a Sustained Timber Production Assessment, a Fish and Wildlife Assessment, and a Watershed Assessment. The Sustained Timber Production Assessment evaluates and calculates the amount of harvestable trees and long-term production outlook for the land under consideration. The Fish and Wildlife Assessment entails a full range of natural resource concerns, including the conditions and management of fisheries and wildlife. The Watershed Assessment ensures that the beneficial uses of water downstream are not negatively affected by timber operations.

## **2.3 EVALUATE PROPERTY FOR LAND EXCHANGE**

The USDA Forest Service (Forest Service), pursuant to the National Forest Management Act of 1976, and the U.S. Bureau of Land Management (BLM), pursuant to the Federal Land Policy and Management Act, are involved in the property transfers. These agencies are authorized to acquire, excess, exchange, and transfer federal lands. They are the agencies primarily responsible for furthering the federal realty actions of the Agreement.

The Forest Service, BLM, and Elk River Timber Company have tentatively agreed to evaluate approximately 18,000 acres of National Forest System land in the Sierra Nevada Mountains for a proposed exchange for approximately 9,600 acres of Elk River Timber Company lands, including areas of subsurface mineral rights. The Elk River Timber Company lands involved are in the Elk River drainage, Humboldt County. The Sierra Nevada lands included in this proposed exchange are located within the Lassen, Plumas, Tahoe, El Dorado, and Stanislaus National Forests, California.

Although the proposed land exchange includes the exchange of subsurface mineral rights, no mining activity of any kind is part of the proposed action. Any future mining activity would be evaluated in a separate NEPA or CEQA analysis.

Land exchanges proceed along three paths that overlap slightly in time: (1) Land Exchange Proposal, (2) NEPA Phase, and (3) Final Appraisal and Land Exchange. The first path involves initial discussions and agreement to exchange lands, along with conducting various studies. The second path is the environmental analysis, documented in this EIS/EIR, as per Forest Service Manual 1909.15, Chapter 30. The third path is the final appraisal and valuation, culminating in the final exchange agreement and the actual exchange of lands. These three paths will be discussed in more detail in the EIS/EIR.

Following the Agreement, California offered several real properties to Maxxam. These properties were listed in the FWS Notice of Intent to prepare this EIS/EIR. However, Maxxam rejected all of these properties and they are no longer under consideration in the EIS/EIR.

## **2.4 COMPLETE CEQA AND NEPA PROCESS**



#### **2.4.1 Draft EIS/EIR**

The public will have 90 days during June to September, 1997, to review and comment on the Draft EIS/EIR concurrently with the HCP, ITP, and SYP. Several public hearings will be conducted during the comment period; these will be announced at a later date.

#### **2.4.2 Final EIS/EIR**

The Final EIS/EIR will be available in late 1997 for public review for at least 30 days before any decision is made.

#### **2.4.3 Federal Record of Decision and State Certification/Notice of Determination**

The Record of Decision on the EIS and California certification of the EIS/EIR and Notice of Determination will be executed after the Final EIS/EIR public review period concludes. A notice of the permit decision will be published in the Federal Register.

#### **2.4.4 Issuance of Federal Incidental Take Permit and Unlisted Species Coverage**

The ITP will be available for review while the Draft EIS/EIR is out for public review and comment. The FWS and NMFS decisions will be based upon the HCP submitted by PALCO and whether the HCP meets all of the issuance criteria for an ITP and unlisted species agreement. Decisions are scheduled for February 1998.

#### **2.4.5 Issuance of State Determination of Conformance for the SYP**

Public involvement in the Determination of Conformance process includes public review and comment on the SYP while the Draft EIS/EIR is out for public review and comment. CDF and other state and local agencies will evaluate the SYP to determine whether it satisfies the requirements of maximum sustained production under the FPR and whether the SYP satisfactorily protects fisheries, watersheds, and wildlife. Decisions are scheduled for February 1998.

### **3.0 SCOPING PROCESS**

In preparation for decisions on the ITP and SYP, the lead agencies must conduct a scoping process before preparing the Draft and Final EIS/EIR. Foster Wheeler Environmental Corporation is preparing the EIS/EIR under the direction of the FWS and CDF in compliance with the requirements of NEPA and CEQA. The EIS/EIR will evaluate alternatives and outline information to be used by decision-makers in determining whether to issue the permit. An environmental review will be conducted in accordance with the requirements of NEPA, 42 U.S.C., et. seq., Council for Environmental Quality Regulations for Implementing NEPA, 40 CFR 1500, et. seq., other appropriate federal and state regulations, and FWS and CDF policy for compliance with those regulations.

The FWS, in cooperation with NMFS, BLM, the U.S. Environmental Protection Agency, the Forest Service, the California Resources Agency, CDF, and California Department of Fish and Game, conducted a joint scoping process for the preparation of the EIS/EIR to satisfy NEPA and CEQA requirements. The FWS circulated the Notice of Intent to prepare the EIS/EIR pursuant to the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1501.7 and 1508.22), to obtain suggestions and

information from other agencies and the public on the scope of issues and alternatives to be considered in the EIS/EIR.

Notice of the public meeting and notice of the intent to prepare this joint EIS/EIR for the federal and state actions associated with furthering the purposes of the Agreement were published in the Federal Register on December 27, 1996, in Volume 61, beginning at page 68,285. A subsequent Federal Register notice announcing an additional scoping meeting was published on January 9, 1997, in Volume 62, beginning on page 1339. Copies of the Federal Register publications were made available to the public at each public meeting. Additional printed information on the issues was available at the registration table at each public meeting. CDF issued a Notice of Preparation for the EIR on January 10, 1997.

Oral and written public comments on the scope of the alternatives and environmental effects to be examined in the consideration of this proposed project were to be received by February 18, 1997. About 2,690 written comments and 520 oral comments were received during the formal December-February scoping period. Additionally, about 1,970 written comments related to the project were received prior to

and after the formal scoping period. Written comments were given the same consideration as any oral comments. After review and consideration of these comments, the FWS and the other cooperating agencies compiled information necessary for the preparation of the EIS/EIR.

Six scoping meetings were held throughout California to receive public comments on all aspects of the proposal. The dates and locations of the meetings are as follows:

January 16, 1997   Oakland, CA  
January 23, 1997   Bakersfield, CA  
January 28, 1997   Redding, CA  
January 30, 1997   Sacramento, CA  
February 5, 1997   Eureka, CA  
February 11, 1997   Manhattan Beach, CA

A transcript of all oral comments given at each public meeting was prepared to preserve them for the record. These transcripts are part of the administrative record for this process. Issues raised form the basis for alternatives defined and analyzed in the EIS/EIR.

Written comments were submitted to the staff at the registration table at each meeting, or mailed to Mr. Bruce Halstead, U.S. Fish and Wildlife Service, 1125 Sixteenth Street, Room 209, Arcata, California 95521.

Written and oral comments were reviewed and assigned one or more comment codes corresponding to the meaning of the comment. These codes were developed from the comments, with new codes added when new issues, concerns, alternatives, or recommendations were raised during the comment review. Each comment code is addressed in Chapter 4 of this Scoping Report.

All the issues associated with the comments received during scoping are addressed in this report. The EIS/EIR will report the expected environmental impacts associated with proposed actions, and will use scoping comments related to environmental impacts in the development of the document. This scoping report identifies those environmental impact issues raised during scoping which will be addressed in detail in the EIS/EIR and those which will not. Comments which will not be addressed in detail in the EIS/EIR

are policy or legal issues, issues outside the scope of the environmental analysis or topics too remote or speculative to warrant analysis as part of the environmental impact analyses.

## **4.0 ISSUES, CONCERNS, ALTERNATIVES, AND RECOMMENDATIONS**

This section identifies issues, concerns, alternatives, and recommendations received from the public for consideration in preparing the EIS/EIR. Each subsection has been divided into the following main topic areas as appropriate:

- An introductory paragraph for the abiotic, biotic, and human environment sections and some of their subsections, summarizing the range of issues to be addressed in the EIS/EIR.
- A description of the specific issues to be addressed further in the EIS/EIR. In some cases detailed quantitative or qualitative analysis and extensive system modeling and predictions are beyond the scope of the EIS/EIR. Available literature and apparently reliable data regarding these issues will be relied on as necessary to provide specific information to be summarized as appropriate and referenced in the EIS/EIR.
- Specific issues not selected for detailed analysis in the EIS/EIR, and an italicized explanation for each such issue of why it does not warrant further discussion as part of the environmental impact analysis.

### **4.1 GENERAL COMMENTS**

Comments were received on issues involving proposed state properties for exchange. These comments have not been included in the scoping report as all proposed state properties were rejected by PALCO for further consideration and are no longer part of the Agreement.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

The following comments relate to policy issues or opinions held by various segments of the public. The focus of the EIS/EIR is on proposed actions and their associated environmental effects rather than as a forum for policy debate. Thus, these issues are not considered to be within the scope of the EIS/EIR and will not be directly addressed in the analysis of environmental effects.

- Seizure of the 60,000 acres by eminent domain or provisional process.
- California already has enough old-growth redwood preserved.
- There is enough land in public hands already; land is better managed by private industry.
- California has enough timber reserves to provide for old-growth preservation and meet wood demands. California currently has to import wood because of excessive preservation of lands.
- Evaluate the legality of Maxxam's hostile takeover of PALCO.

- Evaluate the appropriateness of investing California Public Employee Retirement Funds in Maxxam.

#### **4.1.1 Protect 60,000 Acres/All 6 Old-Growth Groves**

Each natural resource section (e.g., geology and mineral resources; soils; floodplain, wetlands and riparian areas; watersheds and hydrology; fish and aquatic habitat; vegetation and timber resources; wildlife) will address the effects and cumulative effects of each alternative on the respective resource at an ecosystem level.

##### **Specific issues to be addressed further in the EIS/EIR**

Protection of all 60,000 acres, including all 6 groves, is necessary to maintain/restore the old-growth ecosystem.

##### **Specific issues not considered in detail in the EIS/EIR**

Protect all old groves as not enough is known about their importance in the environment, including their role in local and global water quality, fire maintenance, air quality, soil properties, and genetic contribution. *Explanation: Although the environmental effects of protecting all old-growth groves will be analyzed in the EIR/EIS, assessing global impacts associated with the continued existence of these groves is not in the scope of the EIS/EIR.*

#### **4.1.2 Debt for Nature Swap**

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Trade the 60,000 acres, or at the very least the 7,500 acres in the Agreement, for the \$1.6 billion savings and loan/junk bond debts the American people have already paid for Maxxam and Charles Hurwitz' debt. Give Charles Hurwitz nothing. See below.

The public bailout of the savings and loan failure is more than enough compensation for any land exchange. See below.

Oppose asset exchange as taxpayers have already paid for Headwaters Forest through the savings and loan bailout. Make Charles Hurwitz pay his own debts. See below.

One comment suggested that Charles Hurwitz is holding the critical habitat for the marbled murrelet (a public trust) ransom. See below.

*Explanation: The principal negotiations leading up to the September 28, 1996, Agreement with Maxxam Corporation and PALCO recognized that other matters involving the United States and Mr. Hurwitz are separate and distinct, and that a voluntary agreement which was tied to resolution of these other matters could not be reached. Specifically, FDIC v. Hurwitz, CAH 95-3956 (S.D. Tex.) and In the Matter of United Savings Association of Texas and United Financial Group, Inc., et al., OTS AP 95-40, are separate matters within the purview of the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS) and are the subject of ongoing litigation. The September 28, 1996, Agreement does not address those proceedings which are independent of the proposed habitat conservation plan and asset*

*exchange contemplated under the Agreement.*

*The federal lead and cooperating agencies concluded in view of this background that the “debt for nature alternative” is not a reasonable alternative and has not selected it for detailed analysis under the EIS/EIR.*

## **4.2 ABIOTIC ISSUES**

The EIS/EIR will address the affected environment, effects, and mitigation associated with several resource areas. Abiotic issues to be addressed include air quality, soils, landslide and flood potential, water quality, and watershed analysis.

### **4.2.1 Air Quality**

The EIS/EIR will address applicable ambient air quality standards, the air quality attainment status of affected areas, and impacts of the proposed alternatives on air quality in the affected areas. Specifically, the EIS will address air emissions associated with logging activities including slash burning, transportation of cut timbers, vehicle and road dust emissions, and road construction activities.

#### **Specific issues to be addressed further in the EIS/EIR**

Evaluate the air impacts involving increased dust from logging activities and the role of logging on reduced soil retention.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address the global effects of the harvest of 60,000 acres of old-growth and buffers. *Explanation: This issue is beyond the scope of the EIS/EIR. The project scale is such that there would not be significant global effects.*

Evaluate the health of the planet from loss of oxygen producing trees. *Explanation: This issue is outside the scope of the EIS/EIR. The project scale is such that there would not be significant global effects.*

Address changes in microclimates and potential changes to the global climate. *Explanation: The changes to the microclimate will be addressed, but the project scale is such that there would not be significant global effects. This global issue is outside the scope of the EIS/EIR.*

Address the loss of carbon sink as a result of harvesting old-growth trees. *Explanation: No federal or state regulations exist establishing carbon dioxide ambient air quality standards. Therefore, addressing the loss of potential carbon sinks is outside the scope of the EIS/EIR..*

### **4.2.2 Soils**

The EIS/EIR will discuss the soils of the area and the effects the practices of the HCP will have on soil productivity. The issues of tree-root strength and landslides will be addressed.

The EIS/EIR will address the geology of the area as it relates to several areas. These include soils, landslide and flood potential, watersheds, which are discussed in the following subsections. They also include oil and gas leases, special geological conditions, and an overview of the mineral resources. The

EIS/EIR will also address effects on geological and mineral resources of the area

#### **Specific issues to be addressed further in the EIS/EIR**

Address effects on long-term soil productivity as a result of erosion.

Evaluate the role of trees as soil anchors.

Evaluate the loss of topsoil.

Address long-term soil productivity and the effects of short-cycle harvesting using heavy mechanized equipment.

#### **4.2.3 Landslide and Flood Potential**

The EIS/EIR will describe the landscape, geomorphology, and soils of the area including the distribution on soil types, hazard or erodible soils, debris-flow and landslide potential, sediment delivery, and special soils or geologic conditions. The EIS/EIR will discuss the impacts of the Plan upon soils and soil erosion.

#### **Specific issues to be addressed further in the EIS/EIR**

Address the role of timber harvest in triggering landslides and floods.

Analyze Stafford and Redway landslides and identify the potential for similar catastrophes on PALCO land.

Address the role of fire in landslides.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Old-growth redwoods are absolutely integral in maintaining the integrity of the fault lines of the West Coast. *Explanation: Little data exists to support this theory, thus, this issue is considered too remote or speculative to warrant detailed discussion in the EIS/EIR.*

Identify the probability of a single catastrophic event (flood or wet-season earthquake) causing populations of protected or diminishing species to drop below thresholds of viability. *Explanation: A probability calculation, even if it could be calculated, provides little in the way of meaningful information pertaining to the proposed agency actions and thus, this issue is considered too speculative to warrant detailed discussion in the EIS/EIR..*

Assess the costs of personal and private property loss in addition to costs to the county and state for rebuilding highways as a result of floods and landslides. *Explanation: Predicting the number and size of these events and their associated costs is too speculative to address in detail in the EIS/EIR.*

#### **4.2.4 Water Quality**

The EIS/EIR will address water quality and quantity of streams in the area of PALCO lands and Sierra Nevada exchange lands. The EIS/EIR will also address the riparian strategy and watershed analysis, and

rain-on-snow effects. The EIS/EIR will specifically evaluate effects on water temperature, dissolved oxygen, sediment, potential contaminants (e.g., nutrients, herbicides), and turbidity in forested and deforested areas.

### **Specific issues to be addressed further in the EIS/EIR**

Address fisheries and stream protection issues including stream quality, erosion control, and drinking water quality after logging.

Describe effects of herbicides, pesticides, etc., in sustained yield management practices on stream health and drinking water quality for human consumption.

Address the addition of roads and resulting increased soil erosion.

Comment suggested identifying and removing roads entering critical habitat areas.

Evaluate the need for no-cut stream zones for riparian protection.

Address watershed rehabilitation to improve habitat in the degraded parts of the 60,000 acres with respect to sediment contribution to the streams, lack of riparian cover, and lethal stream temperatures.

Apply the Clean Water Act and the Aquatic Conservation Strategy outlined in the Northwest Forest Plan.

Ensure HCP and SYP follow guidelines under the California Porter-Cologne Water Quality Control Act, the North Coast Water Quality Control Board's Water Quality Basin Management Plan and the Clean Water Act.

Address skid trails as a source of sediment discharge.

Include discussion of total maximum daily load (TMDLs) and possibility of miscalculations.

Address the health risks to wildlife in streams (direct contact, inhalation, absorption) from herbicide use on PALCO's surrounding logged areas as it is transported to the Reserve and watersheds.

### **Specific issues not selected for detailed analysis in the EIS/EIR**

Analyze stream siltation and sedimentation on a sub-basin level. *Explanation: Although general effects will be discussed, a lack of site-specific information makes such an analysis for every sub-basin infeasible.*

Address impacts to instream flows from loss of water retention. *Explanation: Data are unavailable to conduct such a study, making such an analysis infeasible*

Evaluate the effects of the loss of soil (from increased soil erosion due to logging) as a natural water purification system. *Explanation: Data are unavailable to conduct such a study, making such an analysis infeasible.*

Roadless areas should remain roadless to prevent further erosion. *Explanation: The EIS/EIR will address the effects of existing roads and potential future roads in relation to sediment delivery and subsequent*

*water quality and quantity impacts and in relation to issues such as habitat fragmentation, however, the public policy issue over whether additional roads should be built on privately-owned commercial forest land is beyond the scope of this EIS/EIR..*

#### **4.2.5 Watershed Analysis**

##### **Specific issues to be addressed further in the EIS/EIR**

Define key watersheds with at-risk fish stocks and high quality water. *Explanation: Fish stocks and water quality issues will be addressed in the EIS/EIR. However, key watersheds will not be designated as part of the EIS/EIR process.*

Identify potential benefits to be derived from uses of water on PALCO property. *Explanation: Beneficial impacts of water will be listed and those being impaired by harvesting will be identified.*

Comment suggested that wildlife analysis areas are too large and mask the effects of logging on certain smaller streams. *Explanation: Analysis of impacts to wildlife and wildlife habitat will not be limited to wildlife analysis areas, but will be analyzed at a number of landscape scales as appropriate, including at the site, watershed assessment area, and regional levels.*

Comment suggested that the SYP provide habitat information for five extremely large watershed assessment areas at a scale that is too large to respond to the actual needs of the wildlife species that do not or cannot move around the landscape to find refugia.

Address effects to Mattole watershed if harvest is shifted. Complete cumulative impacts analysis on logging in upper and lower North Fork Mattole River basin separately from Bear River. Assess impacts on water pollution and quality, precipitation impacts, riparian zones, sediment production, role of road armoring, role of mature seral forests versus late seral forest on old-growth dependent species, habitat and species identification, restoration of potential refugia, management effects, watershed sensitivity and assessment areas, role of plant forms, salvage harvest after wild fire, need for a transportation plan, need to analyze disturbance index limitations and increased public participation. *Explanation: Many of these issues will be addressed in a broad sense, but are too speculative to warrant detailed discussion in the EIS/EIR.*

Address cumulative watershed and old-growth forest impacts in north coast California.

Evaluate cumulative watershed and other impacts for all coastal northwest old-growth forests.

Evaluate Yager Creek impacts.

Evaluate Elk River impacts.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Current enforcement of Forest Practice Rules is not sufficient to protect watershed resources. *Explanation: The EIS/EIR may address some of the environmental effects associated with implementation of California Forest Practice Rule (FPR) related to watershed resources such as water quality and quality and potential impacts to fish and wildlife, but the level of FPR enforcement efforts, as a matter of public policy, is outside*



*the scope of this EIS/EIR..*

Evaluate depletion of water table as rain waters run off unprotected soil, as compared to redwoods collecting fog and dripping it slowly into the ground. *Explanation: Data is unavailable to conduct such a study, making such an analysis infeasible.*

Address effects to Mattole watershed if harvest is shifted. Complete cumulative impacts analysis on logging in upper and lower North Fork Mattole River basin separately from Bear River. Assess impacts on water pollution and quality, precipitation impacts, riparian zones, sediment production, role of road armoring, role of mature seral forests versus late seral forest on old-growth dependent species, habitat and species identification, restoration of potential refugia, management effects, watershed sensitivity and assessment areas, role of plant forms, salvage harvest after wild fire, need for a transportation plan, need to analyze disturbance index limitations and increased public participation. *Explanation: Many of these issues will be addressed in a broad sense, but are too remote or speculative to warrant detailed discussion in the EIS/EIR. The EIS/EIR will not analyze potential refugia or separate basins.*

### **4.3 BIOTIC ISSUES**

The EIS/EIR will address issues brought forth by the public and agencies. Effects of the project on vegetation, wildlife, and fish will be addressed. These analyses will reflect comments received in the areas of forest fragmentation, forest health, habitats, plants, wildlife, biodiversity, fisheries, and ecosystem sustainability.

#### **4.3.1 Old-Growth Forest Fragmentation**

##### **Specific issues to be addressed further in the EIS/EIR**

Evaluate the impacts from fragmentation around Headwaters including management and natural effects.

Evaluate the role of fragmentation in the destruction of microclimates in the forest; edge effect, increased wind velocity, evaporation, and solar insolation, influx of invasive species; increased risk of catastrophic fire, reduction of fog drips and natural moisture retention, lack of shade and resulting effects on role of lichen, mycorrhizal root fungi, and plant succession in the forest, and reduction in seed supply and seedling health.

Address the effects of fragmentation on nutrient, hydrologic, and thermodynamic cycles in the forest.

Identify the effects of landscape-scale habitat fragmentation on all species recovery, including threatened, endangered, small mammals, and game species. Analyze species reaction to crowding when habitats are reduced in size. Identify species that are more susceptible to fragmentation. Address effects of fragmentation on the reproductive success of each species.

Address how the Reserve will be affected by industrial forest practices in surrounding areas. Evaluate the effect on old growth from pesticide application or other management practices on neighboring fiber farms or clear cut areas.

Evaluate the effects on species from the change from hardwood habitats to conifer habitats as suggested in the SYP.

It was suggested that there should be designated buffer zones around all old groves and critical habitat areas to reduce fragmentation effects.

Assess whether destruction of habitat will mean species are more vulnerable to predators.

All the remaining 4 percent of old-growth redwood should be protected. *Explanation: Although the EIS/EIR will address the environmental effects of protecting all remaining old-growth redwood within the project area, the public policy issue of whether all old-growth redwood should be protected throughout its range is outside the scope of this EIS/EIR.*

#### **4.3.2 Forest Health**

##### **Specific issues to be addressed further in the EIS/EIR**

Address role of residual old growth in forest health.

#### **4.3.3 Habitats**

##### **Specific issues to be addressed further in the EIS/EIR**

Identify role of old-growth forest in the ecosystem and evaluate whether there is a role distinct from that of second-growth forest.

Comment suggested that owls live in second-growth, so second-growth is worth something as a habitat.

*Explanation: The EIS/EIR will describe the role of various habitat types and forest classes in the occurrence and distribution of wildlife, and the effects of changes in the distribution and quantity of habitat types on wildlife (including the spotted owl).*

#### **4.3.4 Plants**

##### **Specific issue to be addressed further in the EIS/EIR**

Comment suggested using data available from the Rare Plant Scientific Advisory Committee of the CNPS for survey protocols and mitigation guidelines for plants.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address the impacts of the importation of logs from Pacific Rim countries like New Zealand for processing in local saw mills on the local economy and the potential for the spread of new exotic species of pests on local forests. *Explanation: This issue is not within the scope of the EIS/EIR. It is not anticipated that this project will influence the lumber supply in the region given that demand for imported lumber is driven by national housing demand trends and other macro-economic influences. Safeguards against exotic species introductions include treatments on imported logs.*

#### **4.3.5 Wildlife**

##### **Specific issues to be addressed further in the EIS/EIR**

Address effects of using helicopters in marbled murrelet habitat.

Address the loss of wildlife corridors preventing gene flow between fragmented habitats. Loss of corridors disrupts or prevents wildlife access to forage areas, breeding grounds, or hibernation sites. Evaluate the disruption of the Pacific flyway for migratory species.

*Explanation: The EIS/EIR will address the potential effects of timber management activities (including the use of helicopters as applicable) on wildlife under the alternatives, including under the SYP, HCP, and California Forest Practice Rules. The EIS/EIR will address impacts on old growth forest habitat providing habitat for neotropical migratory birds.*

*The EIS/EIR will describe the effect of present and future distribution and quality of wildlife habitats, particularly old-growth forest, on wildlife and wildlife habitat, including the role of forest connectivity and the effects of forest fragmentation (including on dispersal and movement of wildlife) in and near the Project Area and in the general region. effects of fragmentation on the reproductive success of each species will not be specifically addressed; instead, impacts of the removal and modification of key habitats (including old-growth forest) used by wildlife species will be used as an index to successful productivity (i.e., reproductive success) of individual species. Based on the assessed effects of old-growth forest fragmentation on wildlife and wildlife habitats, the appropriateness of buffer zones will be evaluated and addressed in proposed mitigation measures.*

#### **4.3.6 Biodiversity**

##### **Specific issues to be addressed further in the EIS/EIR**

Describe the effects of changing timber harvest methods on species composition in the forest, wetlands, and rivers.

Address the loss of biodiversity.

Address the types of biodiversity that old-growth forest habitats preserve.

Identify how the loss of irreplaceable biodiversity can be analyzed.

Comment suggested that seed recovery cannot proceed from superior trees if the trees are logged from the old-growth groves.

Comment suggested that a reduction in biodiversity is a direct result of habitat destruction.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Assess loss of educational opportunities to study intact pristine old-growth forest systems and their role in maintaining biodiversity. Determine the effects on studies at Humboldt State University. *Explanation. Since there is no data to suggest direct or indirect impacts, the issue is too speculative to warrant detailed discussion in the EIS/EIR.*

#### **4.3.7 Fisheries**

The EIS/EIR will address the distribution of fish species in and near PALCO lands and the Sierra Nevada exchange lands. It will also address streamside habitat, regulations, and harvest practices that affect in-channel conditions. Key fish species addressed will include salmon (coho and chinook) and trout (steelhead and cutthroat). The impact analyses will evaluate a range of proposed harvest prescriptions for upland areas (e.g., road operation and maintenance) and riparian areas (e.g., harvest management restrictions and streamside buffer areas). Cumulative impacts of the HCP and SYP for the north coast of California will be addressed.

#### **Specific issues to be addressed further in the EIS/EIR**

Evaluate damage to salmonid fisheries as a result of logging practices. Analyze effects of stream siltation on fish egg and fry suffocation.

Assess effects of increased stream temperature from canopy loss on fish populations. Include impact studies of coho spawning streams on all PALCO lands and look at wide distribution and populations of coho in 8 important watersheds. *Explanation: These issues will be addressed in a broad sense. However, the number of coho individuals in the various watersheds is too remote or speculative to be discussed in detail in the EIS/EIR.*

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Include impact studies of coho spawning streams on all PALCO lands and look at wide distribution and populations of coho in 8 important watersheds. *Explanation: These issues will be addressed in a broad sense. However, the number of coho individuals in the various watersheds is not practical to obtain and too speculative to be discussed in detail in the EIS/EIR.*

### **4.3.8 Ecosystem Sustainability**

#### **Specific issues to be addressed further in the EIS/EIR**

Address cumulative effects on the local ecosystem over the past 150 years.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Assess whether the survival of old-growth-dependent species depends on "source" populations elsewhere. *Explanation: Immigration, emigration and recruitment of young will be part of the EIS/EIR environmental analysis addressing impacts on wildlife populations, however, information relating to the topic "source" population is unknown, making such an analysis infeasible.*

Complete a cumulative impact assessment projecting what species will likely be listed as threatened or endangered under the ESA in the next 50 years due to the continuing decline in habitat in both California and the western coastal United States. *Explanation: Such projections are too remote or speculative to warrant detailed discussion in the EIS/EIR.*

Evaluate human link to fragile ecosystem. *Explanation: This concern is too remote and not within the scope of this EIS/EIR. Information relating to topics such as "human link" and "fragile ecosystem" is unknown, making such an analysis infeasible.*

#### 4.4 HUMAN ENVIRONMENT

The EIS/EIR will address the affected environment, environmental effects, and mitigation associated with each alternative. Social, economic, cultural resources, visual resources, and water quality issues will be addressed in the EIS/EIR.

##### 4.4.1 Social Issues

Address the socioeconomic impacts of preserving 7,500 acres.

Comment suggested to maintain Headwaters in a stewardship of natural heritage for future generations.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Analyze the link between child, drug and alcohol abuse, and bad economy. Evaluate whether further job loss will increase these negative aspects of society within the area. *Explanation: Economic variations are the result of many complex factors, most of which are unrelated to the proposed federal and states' actions; therefore, the issue is considered too remote or speculative to warrant detailed discussion in the EIS/EIR.*

Assess the homeless persons' use of Headwaters Forest for refuge. *Explanation: This issue is not within the scope of the EIS/EIR..*

Evaluate the impact on the spirit and emotional health of concerned citizens if old-growth is logged. *Explanation: While it is recognized that old-growth groves are important to people, examination of emotional and mental health issues are not within the scope of the EIS/EIR..*

Comments suggested that a healthy viable ecosystem is a requirement for humans. *Explanation: The human requirement issue is not within the scope of this EIS/EIR.*

*Explanation: While it is recognized that old-growth groves are important to people, philosophical, ethical, emotional, and mental health issues are outside the scope of the EIS/EIR. Therefore, the following issues will not be analyzed in the EIS/EIR.*

Assess the value of the mental and spiritual well-being of citizens if old-growth is logged.

Identify the spiritual and philosophical value of ancient trees.

Evaluate the loss of natural American heritage and identity; loss of a valuable asset of mankind; loss of a biological heritage; and loss of history's record.

Comment suggested that environmental ethics be part of the decision making process.

Comment suggested that trees are part of the earth, not private property.

Assess impacts to the natural history of the area.

##### 4.4.2 Economic Issues

The EIS/EIR will identify the primary regions of influence that may be affected by the proposed alternatives. The EIS/EIR will also address potential social and economic impacts to these regions, include potential impacts to population, demographics, employment, the local and regional timber industry, as well as federal, California, and local government taxes and revenues. Particular government assessments to be discussed will include the Federal 25 Percent Fund and Payment-in-Lieu Tax, the California Timber Yield Tax, local government property taxes, BLM oil and gas lease royalties, as well as the changes in revenue collection that will affect local governments, school districts, road construction and maintenance agencies, and various California state agencies that receive disbursements from these revenues. Furthermore, the document will generally comment how the proposed alternatives may economically affect local businesses, including sawmills and oil and gas companies.

### **Specific issues to be addressed further in the EIS/EIR**

Assess the economic effects from ecotourism if a 60,000-acre Reserve is open to public access.

Address the market benefits of sustainable forestry for a diversified economy. *Explanation: The EIS/EIR will address direct and indirect effects of the alternatives including the application of sustainable forestry operations to PALCO ownership in relationship to direct employment.*

Assess lost tax revenue and jobs due to exchange, lost land base, royalty revenue, etc.

Personal income, sales, road, property and timber yield take will be greatly reduced if additional land is taken out of production.

Recognize the need to provide continued employment for the thousands of people who rely on the timber industry, indirectly, or directly for their livelihood. *Explanation: The EIS/EIR will address potential employment effects of the alternatives.*

Address long-term job loss or decreased income resulting from increased harvest as per SYP.

Assess the economic effects of logging all the remaining old growth in 15 to 20 years.

Compare to real sustainable forestry practices promoting high grade timber (saw logs) and value added timber products. *Explanation: The effects will be addressed with respect to timber volume available. High grade timber generally increases selling price rather than employment. Producing value added products can be implemented under current conditions; they would not necessarily vary between alternatives and will not be addressed in detail.*

Proposed SYP provides for a short-term, high-yield cut rate and then the jobs will be over. Evaluate long-term job loss of PALCO employees and other jobs in local economy as a result of the liquidation of high quality timber as per the SYP projections.

Assess the impacts of the Agreement on the regional wood supply.

Identify where the timber supply will come from and what the impacts will be of replacing lost timber supply if the Agreement is approved.

Address local economy as a whole over term of SYP. *Explanation: EIS/EIR will discuss economic effects*

*that relate to timber harvest and environmental impacts on an appropriate time scale.*

Assess the financial impact to small timber companies resulting from SPI acquisition of additional 10,000 acres in Sierras (unfair competition). *Explanation: The EIS/EIR will address overall economic impacts of land transfer rather than address the subjective issue of unfair competition.*

### **Specific issues not selected for detailed analysis in the EIS/EIR**

Evaluate the monetary value of fiber farms for pulp and wood chip production compared to the current production of high-quality redwood saw logs. Assess whether it will lower the quality of the product.

*Explanation: There is no proposal to change the types of forest products coming from the project area, thus, this issue not within the scope of the EIS/EIR.*

Address the economic impacts of preserving private land. *Explanation: Private land will not be preserved, it will be purchased or exchanged.*

Address job security, including jobs created for restoration of affected streams, soil, and forest habitats. Have the federal or state government provide job re-training for displaced loggers? *Explanation: It seems unlikely job recreation for habitat restoration will be some of the measures proposed for implementation under the SYP and HCP, however, should such proposals be put forward, the economic effects will be addressed in the EIS/EIR.*

Increase the amount of timber production in the Six Rivers National Forest and/or relocate military or similar state and federal facilities to the Eel River valley to offset job loss. *Explanation: Decisions regarding the above proposals are outside the authority of the permitting agencies and thus, are presently considered outside the scope of the EIS/EIR. Should the U.S. Forest Service or other government entity propose these actions as part of the project, they will be addressed in the EIS/EIR..*

Evaluate compensation by government for loss of timber revenue, possibly by supporting new port for marine commerce in Humboldt Bay. *Explanation: A reduction in timber revenue from current levels may be the result should Pacific Lumber choose to manage their lands under a SYP and HCP, however, any resulting reductions in timber revenues do not obligate government agencies to offset those reductions.*

Assess the economic effects of a decline in water quality, including drinking water and fish habitat. *Explanation: Local and regional declines in water quality are the result of many factors, one of which is timber harvest. Since there is insufficient data available to determine what portion of water quality degradation is attributable to timber harvest, an economic analysis of this is infeasible.*

Assess the economic effects of more landslides to local landowners, the fisheries industry, and the sustainable yield projection. *Explanation: Projecting the numbers and magnitude of future landslides cannot be done with any accuracy, thus attempting to assess the economic effects of these unpredictable events is infeasible.*

Consider that an increase in timber prices due to a reduction in timber harvest may equal higher profits for timber companies. *Explanation: The EIS/EIR will address potential economic effects of varying timber yields to the company and what these changes may mean to the local economy. However, timber company profits are related to many market variables, many of which are outside the scope of this project, thus, the EIS/EIR will not attempt to predict changes in overall timber company profits.*

If timber from the exchange properties is not trucked into Humboldt county, will it result in loss of employment in Humboldt County? *Explanation: The EIS/EIR will address reasonably foreseeable economic effects of various SYP and HCP alternatives, however, its unlikely the available data will allow for an analysis examining timber transportation patterns and their economic effects.*

Assess county compensation for loss of \$500 million worth of merchantable timber from the region's resource base. County wants state and federal assistance to offset the resulting economic impact. *Explanation: A reduction in timber revenue from current levels may be the result should Pacific Lumber choose to manage their lands under a SYP and HCP, however, any resulting reductions in timber revenues do not obligate government agencies to offset those reductions.*

Address whether the government will provide severance for out-of-work loggers. *Explanation: A reduction in timber-related employment from current levels could be a result should Pacific Lumber choose to manage their lands under a SYP and HCP, however, any resulting reductions in employment do not obligate government agencies to offset those reductions.*

Address economic impacts of promoting long-term fisheries industry protection by protecting and restoring salmonid breeding habitats in streams. *Explanation: The SYP and HCP address management strategies under which conditions for fish could improve, however, considering the plethora of other factors related to long-term fisheries protection, there is insufficient data to address economic impacts of this project in regards to long-term fishery industry protection.*

Assess loss of salaries and resulting loss of state and federal income tax; FICA and SS tax; school, county, Harbor District, and sales tax revenue; and loss of investment capital. *Explanation: There are numerous factors relating to changes in all the measures of economic activity, many of which are unrelated to the economic effects of this project. Thus, attempting to segregate the effect of this project from the myriad of other economic factors affecting these measures is infeasible.*

Address the potential for stagnant or decreasing property values. *Explanation: There are numerous factors relating to changes in property values, many of which are unrelated to the economic effects of this project. Thus attempting to segregate the effect of this project from the myriad of other economic factors affecting property values is infeasible.*

Evaluate loss of fisheries jobs due to decreased salmonid populations from past and future water quality degradation. *Explanation: Local and regional declines in fishery employment are the result of many factors, one of which is timber harvest. Since there is insufficient data available to determine what portion of fishery employment reductions is attributable to timber harvest, an economic analysis of this is infeasible.*

Assess the financial impacts to county from civil disobedience if the entire 60,000 acres is not preserved. *Explanation: Financial impacts could be addressed quantitatively based on only past costs, but the future can not be predicted.*

Address effect on local economy of hemp, kenaf or mushroom industries as compared to loss of 60,000 acres of marketable timber. *Explanation: Since these activities are not proposed as part of the project activities, assessing economic effects of these activities is outside the scope of the EIS/EIR.*

Evaluate feasibility of growing redwoods in wastewater. *Explanation: Since this activity is not proposed*



*as part of the project activities, assessing the economic effects of this proposal is outside the scope of the EIS/EIR.*

Evaluate the potential decrease in trained managers as corporations move out of the area. *Explanation: Based on existing data, the prospects of the above scenario are considered remote and speculative, however, should additional information suggest this is a reasonably foreseeable outcome, the EIS/EIR will address its economic effects.*

Assess the potential for decreased personal salaries due to the eventual change from log harvesting to highly mechanized pulp production, requiring less technical labor. *Explanation: Mechanized pulp*

*production is not a reasonably foreseeable event, and thus, the EIS/EIR will not assess the economic effects of scenario.*

#### **4.4.3 Cultural Resources**

The cultural resources section will address prehistory, ethnography, history, and anticipated traditional cultural uses of the project areas, based on existing literature and consultation with the appropriate Native American tribes. It will also address the archaeological sensitivity of these areas and general parameters used in predicting the location of unrecorded sites. Where additional study is planned (e.g., archaeological survey and site evaluation for proposed exchange parcels within the National Forests), the nature of the study and anticipated results will be presented. The EIS/EIR will also address direct effects to cultural resources, anticipated from the trading of federally owned lands, archaeological sites, and traditional cultural properties, out of federal protection, and indirect effects related to timber harvest and road construction.

##### **Specific issues to be addressed further in the EIS/EIR**

Address the protection of cultural resources.

Address archeological sites.

Evaluate impacts of logging practices on Native Americans' subsistence on fish in the area.

Native Americans have not been consulted during the negotiations.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address Wiyot claim to Headwaters Forest pursuant to an intertribal land trust. *Explanation: The basic concepts of land management under an intertribal land trust are captured in alternatives to be considered in the EIS/EIR. Federal tribal trust responsibilities will be addressed as part of the EIS/EIR.*

#### **4.4.4 Visual Resources**

The EIS/EIR will address visual resources in and near the PALCO lands and the Sierra Nevada exchange lands. The EIS/EIR will evaluate effects of the alternatives on visual resources using visual guidelines and standards used by the California Board of Forestry and the U.S. Forest Service.

#### **Specific issues to be addressed further in the EIS/EIR**

Impacts of PALCO timber rights along Northwestern Pacific (NWP) Railroad line.

Address the impact of timber harvest on visual resources.

Vegetation buffer strips needed to protect aesthetic values of forests when logged.

#### **4.4.5 Drinking Water Quality**

The EIS/EIR will address the use of herbicides for control of competing vegetation, and the types of herbicides to be used. The EIS will discuss the impacts of herbicide usage on stream water quality, drinking water quality, human health, and flora and fauna.

#### **Specific issue to be addressed further in the EIS/EIR**

Address the effects on water, wildlife, and people from the application of herbicides including Round-up, Oust, Garlon, and Atrex on PALCO's logged areas.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address the health risks of herbicide use. *Explanation: CEQA has a herbicide registration process. If herbicides are used by a qualified operator in the prescribed method it is assumed that no adverse health impacts will result.*

### **4.5 MANAGEMENT PRACTICES**

#### **4.5.1 Habitat Conservation Plan**

#### **Specific issues to be addressed further in the EIS/EIR**

Address how HCP would incorporate adaptive management.

Describe/analyze the flexibility of the HCP to adjust to unforeseen circumstances; i.e., listing of a new species, a species becomes on the verge of extinction due to logging old-growth, or a listed species is removed from list.

Identify new information or changes in the ecosystem that might warrant modifications of the HCP or SYP in the future.

Identify the effects of empowering PALCO with a 120-year HCP when the land may change ownership. *Explanation: Although the length of the permit is not known, the EIS/EIR will address potential landownership changes over the permit term.*

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Identify the plant and animal species that are essential to old-growth succession or sustainability. *Explanation: Current scientific knowledge is too limited to address this issue, therefore, it would be unduly*

*speculative to include in the EIS/EIR.*

Analyze the adequacy of the HCP and how HCPs provide for survival and recovery. *Explanation: This is an issue that will be addressed in the biological opinion and the Service's Statement of Findings for the permit decision, but is not within the scope of the EIS/EIR.*

Analyze the HCP as it complies with the U.S. Fish and Wildlife Service and National Marine Fisheries Service Habitat Conservation Planning Handbook dated November 1996. *Explanation: The permit decision will be based on whether the application for incidental take meets the permit issuance criteria as defined by law and regulation. Consistency with the U.S. Fish and Wildlife Service and National Marine Fisheries Service Habitat Conservation Planning Handbook dated November 1996 is not a permit criterion.*

Evaluate how the HCP and SYP comply with the California Fish and Game Code, Sections 1770, 1801, 6902, 1802, and 1015. *Explanation: This compliance is part of a decision document and an environmental analysis has not been completed; therefore, it is not within the scope of the EIS/EIR.*

#### **4.5.1.1 Habitat Restoration**

##### **Specific issues to be addressed further in the EIS/EIR**

Address whether the HCP includes the recovery objectives for listed species and other old-growth dependent species, restoration of water courses, riparian zones and other habitats for species.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Comment suggested that it is impossible to recreate a habitat that consists of 500 to 2,000-year-old trees. *Explanation: There is no proposal to recreate 500 to 2,000-year-old trees.*

Identify how the HCP will cover coastal fishing beds restoration. *Explanation: The HCP must address actions for which the permit applicant wishes to receive coverage for incidental take. Since it is anticipated the permit applicant will be seeking coverage mostly related to commercial forest management activities, it seems unlikely the HCP's proposed mitigation measures will address coastal fishing bed restoration.*

Examine the natural disturbance regime from fire, flood, population eruptions, etc., and how these affect succession or other biotic response. *Explanation: This issue is not within the scope of the EIS/EIR. The EIS/EIR will analyze impacts expected from implementing the various alternatives and compare these to expected impacts under a no-permit scenario.*

#### **4.5.1.2 Species Recovery**

##### **Specific issues to address in detail in the EIS/EIR**

Address how exotic species will be identified and removed from 7,500-acre Reserve. *Explanation. Addressing this issue depends in the receipt and content of the HCP.*

Address how the HCP will evaluate the potentially listed coho salmon without a recovery plan. *Explanation: Impact analysis will be based on the best available information.*

Address how 20 pairs (reduced from 153) of northern spotted owls could assist in recovery of the species.

Provide wildlife corridors and species escape refuges.

Consider issues related to small population size or the genetic effective size of a population

**Specific issues not selected for detailed analysis in the EIS/EIR**

Evaluate the probability that any old-growth-dependent species will recover to the point that it is no longer threatened or endangered. *Explanation: While the EIS/EIR will address anticipated environmental effects to species, the issue of whether any old-growth species may someday recover to the point that is no longer considered threatened or endangered is too remote or speculative to be addressed in the EIS/EIR..*

**4.5.1.3 Link Between Ecosystems (Also see Section 4.3.5)**

**Specific issues to be addressed further in the EIS/EIR**

Address how the HCP will provide a link between ecosystems.

Examine how the HCP addresses the protection of critical habitat for the marbled murrelet if all old-growth is cut. Indicate whether the 3,000 acres of old-growth preserved under the Agreement is enough to prevent the extinction of marbled mm-relet in northern California.

Comment suggested protecting 60,000 acres to provide an ecological corridor between the preserved redwoods north (Redwood National Park) and those south (Humboldt State Park) to increase chances for survival of vanishing redwood ecosystem. The corridor is necessary to provide the range and genetic diversity required by vulnerable species like the marbled murrelet, the northern spotted owl, and migratory animals.

Address regional and local ecosystem sustainability and ecological balance.

Analyze the ecological link between Redwood National Park, Humboldt State Park and PALCO lands.

Assess the feasibility of adding the Reserve to the Redwood National Park system.

**Specific issues not selected for detailed analysis in the EIS/EIR**

Complete a cumulative impact assessment of incidental take permits impacting various species for other landowners doing HCPs and SYPs throughout California, Oregon and Washington. *Explanation: An examination of all HCPs addressing numerous unrelated species outside the project area's sphere of influence is beyond the scope of the EIS/EIR.*

**4.5.1.4 Implementation of ESA**

**Specific issues to be addressed further in the EIS/EIR**

Include a comprehensive biological assessment and evaluate the impact of the HCP, ITP, and SYP on each wildlife and plant species for which "No surprises" regulatory assurances will be given. *Explanation: "No*

*Surprises” refers to a policy providing an assurance to non-federal landowners participating in the habitat conservation planning process that no additional land restrictions or financial compensation will be required from an incidental take permittee for species adequately covered by a properly functioning HCP, except in the event of unforeseen or extraordinary circumstances.*

Complete biological analysis for other species including the Northern spotted owl, Humboldt marten, pacific fisher, bald eagle, tailed frog, northern torrent salamander, southern seep salamander, red tree vole, mountain lions, Roosevelt elk, Olympic salamanders, steelhead trout, peregrine falcon, and migratory birds.

*Note : the following comments do not reflect environmental impact issues to be addressed in the EIS/EIR, but represent legal requirements under the ESA.*

Protect the critical habitat for listed species, including the marbled murrelet and coho salmon.

Implement the federal and state ESA.

#### **4.5.2 Sustained Yield Plan**

##### **Specific issues to be addressed further in the EIS/EIR**

Evaluate adequacy of PALCO’s SYP.

Address cumulative impacts of proposed SYP on water quality and wildlife over 120-year period.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Evaluate the SYP’s compliance with the Public Trust Doctrine for all navigable waterways and wildlife populations and ensure the state’s obligation to exercise continued supervision over the trust. *Explanation: This issue represents one person’s legal interpretation rather than an environmental impact and thus, is outside the scope of the EIS/EIR.*

Evaluate whether timber harvest should be consistent with the goals of protection for all species and reduction of sediment loads below harmful levels, as well as maintaining long-term production of high quality saw-logs. *Explanation: The EIS/EIR will address the environmental effects of implementation of the SYP related to sediment delivery to streams, effect on water quality, and timber production, however, the issue of whether timber harvest should be consistent with certain resource protection goals is a policy issue outside the scope of the EIS/EIR..*

Compare with impacts of a plan that relies on true sustainable forestry as defined by the Institute for Sustainable Forestry. *Explanation: The requirements for sustained yield are defined under the Forest Practice Rules (14 CCR 913.11 and 1091.4.5) that are promulgated by the Board of Forestry, and not by outside organizations or parties.*

Evaluate whether the SYP’s definition of long-term sustained yield (LTSY) is consistent with the Forest Practice Rules. If the LTSY plan is followed, a violation of Rule 1091.45 will occur. *Explanation: The requirements for sustained yield are defined under the Forest Practice Rules (14 CCR 913.11 and 1091.4.5) that are promulgated by the Board of Forestry, and not by outside organizations or parties.*

Apply the Land Trust Agreement under the ESA. *Explanation: The ESA has no specific provisions for a "Land Trust Agreement".*

#### **4.5.2.1 Amount of Harvest and Methods**

##### **Specific issues to be addressed further in the EIS/EIR**

Address how liquidating old-growth equals sustained yield.

Address California Endangered Species Act (CESA) issues from loss of old-growth habitat.

Comment suggested there needs to be a limit on harvest and road building in areas connecting old-growth groves and other critical habitat areas and their buffers. *Explanation: The EIS/EIR will address forest fragmentation and habitat connectivity based on the permit applicant's plan and its alternatives.*

Exemption/salvage logging is inappropriate in old-growth. *Explanation: The EIS/EIR will address the environmental effects associated with salvage logging but not address whether there should be a salvage logging exemption.*

Assess the legitimacy of salvage logging as fallen logs provide habitat for wildlife and essential nutrients for the forest. *Explanation: The EIS/EIR will address the environmental effects associated with salvage logging but not address whether there should be a salvage logging exemption.*

Evaluate salvage logging practices by PALCO that have left huge stumps where they cut live, ancient standing trees under the salvage logging permit. *Explanation: The EIS/EIR will address the environmental effects associated with salvage logging but not address whether there should be a salvage logging exemption.*

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address whether PALCO's SYP meets Forest Stewardship Council (FSC) base certification standards for sustainable harvested lumber. *Explanation: This issue is not an environmental impact issue and therefore is not within the scope of the EIS/EIR. The SYP must meet CDF requirements pursuant to the Forest Practice Rules only.*

Assess the probability of creating a fiberboard forest after a clear cut. *Explanation: There are no proposals for such an action, thus, this issue is not within the scope of the EIS/EIR.*

Address why no Timber Harvest Plan was required for exemption harvest prior to the Agreement. *Explanation: This is a CDF policy issue distinct and separate from the actions proposed under the Agreement and thus, is not within the scope of the EIS/EIR.*

Comment suggested sustainability of old-growth impossible because it is not replaceable in the time period of the SYP; 3,000-year-old trees are non-renewable. *Explanation: The EIS/EIR will address the effects of Palco implementing its SYP on old-growth and other resources, however, the SYP does not propose to manage for sustainable old-growth.*

#### **4.5.2.2 Harvest Schedule**

### **Specific issues to be addressed further in the EIS/EIR**

The SYP fails to provide evidence that 10 percent of the forest will be in late-seral stage and does not identify criteria for classifying late-seral stage.

Evaluate feasibility of sustained old-growth with such a short rotation as defined in SYP.

### **Specific issues not selected for detailed analysis in the EIS/EIR**

*Explanation: The following proposals seem unlikely to occur and thus, appear to be beyond the scope of the EIS/EIR, however, should any of these proposals be implemented, the environmental effects will be discussed in the EIS/EIR:*

- A logging moratorium during negotiations is appropriate to avoid loss of irretrievable resources and future options.
- Comments suggested to stop all logging (including salvage) on 60,000 acres during negotiations.
- Comments suggested to stop salvage logging on all 200,000 acres of PALCO land during negotiations due to severe erosion already observed.
- Include 1995 stop work order requests to stop logging in Headwaters in response to timber harvest plans submitted in September of 1995 for Yager and Blanton creeks.

### **4.5.3 Reserve Impacts**

#### **Specific issues to be addressed further in the EIS/EIR**

Address potential management plans for reserve area.

Address land management impacts of the following potential management plans: National Forest; National Park; Citizens Alternative; Preserve; Trust; Traditional Native Stewardship; Inter Tribal Land Trust; Forest Rehabilitation and Jobs Program; wilderness designation for lands put in public ownership with easement for hiking only; and wilderness designation without additional improvement to easements or access.

*Explanation: Land management impacts will be addressed in the EIS/EIR for only reasonably foreseeable management plans.*

### **4.5.4 Adjacent Property Impacts**

#### **Specific issues to be addressed further in the EIS/EIR**

Determine the effects of PALCO management on areas downstream of their property.

Assess the impacts from PALCO management on the adjacent Elk River Timber Company property that is not part of the Agreement.

Loss of homes and property value from slides, herbicides, etc.

Evaluate the personal/financial/environmental loss to adjacent landowners resulting from PALCO forest practices and state approved forest practice rules. *Explanation: Where environmental effects are evident, adjacent property impacts will be addressed. However, the personal and financial loss issue is too remote or speculative to warrant detailed discussion in the EIS/EIR.*

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Private household appliances that use water have been ruined by silt from logging. *Explanation: Little information is available concerning impacts to household appliances from timber harvest, thus, addressing this issue in the EIS/EIR appears remote and speculative.*

Landowners should be able to sue PALCO for property losses associated with slides, herbicides, etc. *Explanation: While the EIS/EIR will address environmental impacts associated with reasonably foreseeable mass wasting events, the legal issues associated with whether landowners should be able to take legal action is outside scope of the EIS/EIR..*

### **4.6 RELIABILITY OF DATA/ANALYSIS**

#### **Specific issues to be addressed further in the EIS/EIR**

Assess the reliability of data/analysis.

Do not use current baseline values, use historic values before logging.

Assess the monetary value of timber protected by federal/state regulation. *Explanation: Such an assessment will be conducted for lands under the Agreement but the value of such lands outside of buffer areas is not within the scope of this EIS/EIR.*

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Assess the monetary value of timber protected by federal/state regulation. *Explanation: The value of such lands outside of buffer areas is not within the scope of this EIS/EIR.*

Evaluate whether the Reserve property is worth \$500 million if the timber cannot be cut. *Explanation: This issue is not an environmental impact issue and, therefore, not within the scope of the EIS/EIR. Property values, including timber values, will be estimated using federal appraisal standards.*

#### **4.6.1 Time frame for Data Gathering and Analysis**

*Explanation: Listed species associated with old-growth forest have been surveyed for following FWS endorsed survey protocols, the results of which will be presented in the EIS/EIR. Available information on the results of wildlife surveys, and the known and suspected occurrence of wildlife species in the project vicinity, will be described in the EIS/EIR.*

#### **Specific issues to be addressed further in the EIS/EIR**

Conduct objective field surveys for threatened and endangered plants at the right time of year under Section 1539(B)(iii) of the ESA.



Need more data to adequately describe the baseline environment on PALCO and exchange lands.

Have old-growth-dependent species been looked for at the times and places they would most likely be found?

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

It is not possible to complete the scientific inquiry necessary to write an adequate EIS/EIR in 10 months. Not enough time allowed for completion or review of an expedited HCP and SYP. *Explanation: Existing data and analysis will be used when appropriate and available. In addition, adaptive management techniques will be used to address future needs. There is no 10 month time frame for project completion.*

#### **4.6.2 Reliability of Data Sources**

##### **Specific issues to be addressed further in the EIS/EIR**

*Explanation: Most of the comments below represent policy issues, however, some relate to environmental impacts issues (such as impacts to plants and wildlife) which will be addressed in the EIS/EIR.*

Comment suggested that marbled murrelet surveys should be done using Pacific Seabird Group protocols.

Base decisions on biology and science, not politics.

The Agreement addresses significant biological issues so use science to analyze the true effects of the Agreement on the environment and other Public Trust issues given the people under the Constitution.

Need for complete, unbiased, independent, total, scientific check on data.

Evaluate the accuracy and validity of the watershed analysis in the SYP.

Include the summary of wildlife and plant surveys on adjacent lands (Redwood National Park and Humboldt State Park) and Marbled Murrelet Conservation Zone #4 for presence or absence of the species in the area. Surveys on adjacent lands may indicate the presence of marbled murrelet on PALCO property.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Fear of financial liability for taking of private property is going to be a driving force for the agencies to give PALCO what it wants in the HCP and SYP. *Explanation: This issue is not related to environmental impacts and thus, is not within the scope of the EIS/EIR.*

Comment suggested the SYP fails to provide enough data to allow for independent calculations of the LTSY plan. *Explanation: This comment will not be addressed in the EIS/EIR further as CDF performs independent verification of calculations and audits PALCO data.*

Impropriety of PALCO paying for studies performed by Redwood Subsciences. *Explanation: This issue is not within the scope of the EIS/EIR. (This organization is not working on the EIS/EIR team.)*

Comment suggested contracts for wildlife surveys, etc., should be administered by CDFG. *Explanation:*

*This is a contracting policy issue outside the scope of the EIS/EIR.*

#### **4.7 ASSET EXCHANGE**

##### **Specific issues to be addressed further in the EIS/EIR**

Include a discussion of the impacts of any proposed activities on exchanged lands on adjacent lands.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address appropriateness of trading other ecologically significant land to protect ecologically significant land. Comment suggested not trading old-growth for old-growth. *Explanation: While the EIS/EIR will address the environmental effects associated with exchanging land and subjecting those lands to reasonably foreseeable management practices, the issue of whether it is appropriate to consider such actions is a policy issue outside the scope of the EIS/EIR..*

Evaluate the need for independent appraisal of exchange lands, Elk River Timber Company property to be preserved, and PALCO property. *Explanation: Appraisals will be conducted according to federal appraisal standards.*

Objection was made to including Cape Mendocino exchange lands due to unique natural features. *Explanation: This comment will not be addressed further in the EIS/EIR because these proposed federal properties are no longer part of the Agreement.*

Objection was made to including lands adjacent to Hoopa Indian Reservation. *Explanation: This comment will not be addressed further in the EIS/EIR because these proposed federal properties are no longer part of the Agreement.*

Objection was made to including 40-acre Glen Ellen parcel in exchange. *Explanation: This comment will not be addressed further in the EIS/EIR because these proposed federal properties are no longer part of the Agreement.*

Objection to including North Fork American Wild River parcels in exchange. *Explanation: This comment will not be addressed further in the EIS/EIR because this proposed property are no longer part of the Agreement.*

Comment suggested no trade of logging rights on exchange lands. Evaluate whether the value of assets includes the value of timber on the property if it is logged. *Explanation: Per federal standards, the value of timber includes standing timber at the time of appraisal.*

##### **4.7.1 Unknown Value of Proposed Property**

##### **Specific issues to be addressed further in the EIS/EIR**

Clarify acreage, location, appraised value of exchange properties.

Comment suggested that exchange lands should be valued mostly for timber value and not wildlife or recreation. *Explanation: This comment will be addressed briefly, but will not be analyzed further in the*

*EIS/EIR. All values (including wildlife and recreation) should be known for all lands involved in the Agreement. All property values will be addressed consistent with federal appraisal standards. The EIS/EIR will generally describe the federal appraisal standards used for evaluating the exchange lands but under federal policy the specific appraisal values will not be available for public review.*

#### **4.7.2 Unknown Value of Ecological Assets**

##### **Specific issues to be addressed further in the EIS/EIR**

Need a complete, accurate and specific description of the properties and other assets that will be exchanged.

Description of exchange lands must include a comprehensive biological survey and inventory as well as a quantitative and qualitative description of other environmental characteristics before trading.

Address the loss of recreational value of public lands due to exchange.

Evaluate whether trading Sierra exchange properties will cause loss of recreational opportunities.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address loss of recreational value of Tahoe National Forest property and assess loss of Granite Chief Wilderness. Consider North Fork American Wild and Scenic River Status, holdings under Pacific Slab Mine (Section 29) status, and other acquisitions in the western states corridor. *Explanation: Assigning potential exchange lands to a specific exchange is a policy issue and not within the scope of this EIS/EIR.*

Comment suggested that many of the exchange lands are under snow for several months and cannot be evaluated. *Explanation: This comment will be addressed briefly in the EIS/EIR. The EIS/EIR will clearly describe how lands were evaluated.*

#### **4.7.3 Conflicting Land Exchanges**

##### **Specific issues to be addressed further in the EIS/EIR**

Address retention of existing contracts, leases, and right-of-way grants and programs on exchange properties.

Analyze whether the land exchanges are consistent with applicable land and resource management plans for BLM and Forest Service lands.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

*Explanation: The following comments will not be analyzed in detail because assigning potential exchange lands to a specific exchange represents an administrative or policy issue rather than an environmental effect and thus, is beyond the scope of the EIS/EIR:*

- Address problem of conflicting land exchanges. Sierra Pacific Industries (SPI) properties are also under consideration for the American River land exchange, and the Headwaters deal would

conflict with the Arcata resource area land exchange.

- Trading public lands should not foreclose or compromise other landscape conservation or land acquisition programs or efforts.
- Current proposal for exchanging Sierra Nevada National Forest lands interferes with a number of ongoing proposed private Forest Service trades that would take care of in-holdings within wilderness and other places. Identify the direct and indirect effects of the current proposal on ongoing land exchanges.

#### **4.7.4 Oil and Gas Leases**

##### **Specific issues to be addressed further in the EIS/EIR**

Address issues involving oil and gas leases on exchange properties.

Evaluate the effects of the proposed sale or transfer of the mineral exchange on federal on-shore oil and gas leases in California and the rest of the nation.

Identify whether the federal government plans to divert the royalty stream from those leases to the current Headwaters Forest owner.

Identify whether the government plans to exchange the mineral right on those leases for the surface rights in the forest.

Evaluating oil royalties is difficult and, therefore, could cause a monetary loss to federal government.

Oil producing activities would be disrupted by creating a third-party ownership that could have real or imagined control over newly gained assets.

The land transfer would harm the long-term relationship CIA members have with BLM and other federal agencies.

The land transfer could detour a producer from bidding on future leases because any operator who obtained a lease could have lease conditions changed and this could result in fewer companies bidding for government properties.

Assess the potential for California to lose millions of dollars from the oil and production royalties stream as the state receives 50 percent of all oil and gas royalties from federal lands.

Identify the impacts to oil companies that may have leases and have put improvements associated with these leases on the lands that are proposed for exchange.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

*Explanation: While the EIR/EIS will address the potential effects of exchanging mineral rights, the following comments relate to policy issues rather than environmental effects and thus, are outside the scope of the EIS/EIR:*

- CIA would like to have the leases made available for purchase directly by the current operator instead of transferring the mineral rights to a third party, with BLM maintaining the surface rights. If this cannot be done, divert the royalties stream from these leases to the forest owner.
- Will it be the policy of the federal government to allow, as mitigation, unlike habitats from different locations as compensation.
- Identify how compensation for these improvements will be addressed.

#### **4.8 PUBLIC TRUST ISSUES**

##### **Specific issues to be addressed further in the EIS/EIR**

Identify party responsible and mechanism for protection of public trust on exchange lands and PALCO lands (includes issues of biodiversity, fisheries, groundwater, and surface water).

Identify party responsible for ensuring that issues of public trust are not violated on exchange lands or PALCO lands.

Assess deficit in amount of land under public ownership in central Sierra Nevada and result on potential deficient habitat of late successional old growth. Evaluate the effect increasing the amount of private timberland will have on the central Sierra Nevada as a whole.

Evaluate the potential for increased take of sensitive plants on exchange lands due to the weakening of enforcement of ESA regulations after federal ownership ceases.

Comment suggested some of the exchange lands are part of a network recently identified by the Sierra Nevada Ecosystem Project (STEP) as necessary for protection in any long-term plan for the Sierra, and some provide important habitat for the sensitive California spotted owl and other old-growth associated species.

Description and analysis should include any past, present, and reasonably foreseeable future timber harvesting, resource extraction, development or other activities proposed by the entities that could affect the environment.

#### **4.9 NEPA COMMENTS**

##### **4.9.1 Proposed Alternative**

##### **Specific issue to be addressed further in the EIS/EIR**

Comments suggested that the Agreement offers a fair compromise. The building industry has no substitute for quality redwood. There is a need for materials for construction of housing, schools, and businesses.

*Explanation: The EIS/EIR will generally address impacts to timber supply and associated economic effects.*

##### **4.9.2 Other Alternatives**

##### **Specific issues to be addressed further in the EIS/EIR**

Citizens' Alternative developed to protect all 60,000 from further logging (Trees Foundation proposal). This approach protects the biological integrity of the six old-growth groves and surrounding buffer lands; any less will not do.

Alternatives to deal as a whole (Environmental Law Foundation).

Alternative Marbled Murrelet and Northern Spotted Owl Conservation Options (Environmental Law Foundation).

Address the feasibility of an all cash deal.

Native Americans would like to regain management of the Reserve.

### **Specific issues not selected for detailed analysis in the EIS/EIR**

Address the option of trading second or third growth timber rights in Redwood National Park as alternative. *Explanation: Redwood National Park does not have these timber rights so this issue is not feasible and will not be considered further in the EIS/EIR.*

*Explanation: The following comments relate to policy issues concerning possible methods of assets exchange, all of which will be considered; however, they do not represent environmental effects and thus, will not be reflected in the environmental impact analysis.*

- Evaluate options such as paying cash using taxpayer money, or a bond measure to pay PALCO and Elk River Timber Company for either the 7,500-acre Reserve or 60,000 acres instead of exchanging lands.
- Evaluate using cash revenues (donations earmarked for Headwaters) from the Nature Conservancy and other environmental groups as a possible asset for purchase of the 60,000 acres.
- Evaluate using money from the Land and Water Conservation plan to buy the land.
- Assess the minimization of adverse effects of Sierra land exchange through the granting of timber rights only, or trade of in-holdings only.
- Offer in-holdings within private timberlands rather than blocks of substantial acreage in Eldorado and Stanislaus forests. This idea has been considered, but determined to be infeasible due to insufficient acreage and the geographic distance separating individual inholding.

## **4.10 IMPLEMENTATION**

### **4.10.1 Compliance Monitoring**

#### **Specific issues to be addressed further in the EIS/EIR**

Describe purpose of SYP Monitoring Plan and what prescriptive measures will be implemented.

Address agency's ability to monitor compliance with HCP/SYP and Agreement.

Address public participation in the monitoring process. Include non-profit conservation organizations in monitoring, inspection, and assessment programs.

Describe the conditions or activities on all of PALCO's land that will cause the ITP to be revoked and the charges for minor violations. Describe the procedures to investigate PALCO for violations of the permit.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

No additional public land should be acquired. *Explanation: This comment represents a policy issue than an environmental impact issue and thus, is outside the scope of the EIS/EIR.*

Discuss how PALCO's history of forest practice and Endangered Species Act violations will be addressed and enforced in the SYP and HCP. *This issue will be covered in the Implementing Agreement, but is not in the scope of the EIS/EIR.*

Should be a right-of-entry permit for people to check the EIS/EIR and other technical studies. *This comment will not be addressed further in the EIS/EIR because it is a private property issue. Right-of-entry for the Reserve will be determined in the management plan.*

Follow CEQA/NEPA requirements for a legally sufficient EIS/EIR. *Explanation: Although the joint NEPA/CEQA document will be legally sufficient, this comment does not address an environmental impact issue and thus, is outside the scope of analysis under the EIS/EIR.*

#### **4.10.2 Adaptive Management Techniques**

##### **Specific issues to be addressed further in the EIS/EIR**

Analyze the impacts of the HCP on wildlife or plant species not covered by the plan.

#### **4.10.3 No Surprises Clauses**

Identify the biological impacts of a No Surprises policy.

*Explanation: "No Surprises" refers to a policy developed by the Department of Interior and Department of Commerce to provide an assurance to non-federal landowners participating in habitat conservation planning process. The assurance is that no additional land restrictions or financial compensation will be required from an incidental take permittee for species adequately covered by a properly functioning HCP, except in the event of unforeseen or extraordinary circumstances. The September 28, 1996, Agreement includes a "No surprises" clause.*

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

*The following comments relate to policy issues rather than environmental effects and will not be reflected in the environmental impact analysis.*

- Comments suggested that no regulatory assurances in the form of a No Surprises policy should be given that might preclude further adjustments necessary to promote the recovery of any named or unnamed species.

- Comment suggested that in cases where there is insufficient time to conduct adequate field surveys, the No Surprises policy should not apply to new species found in later surveys.

#### **4.10.4 Mitigation**

##### **Specific issues to be addressed further in the EIS/EIR**

Describe current baseline watershed conditions and develop measures to maintain and improve the condition of aquatic resources.

Quantify the level of take and describe the activities that could result in take and mitigation measures for each that result in less than significant effects.

Comment suggested not using the Reserve as mitigation for plants on PALCO or SPI property.

Evaluate taxpayer cost of restoration of riparian and stream resources. *Explanation: The EIS/EIR will address potential cost associated with habitat restoration on only those lands which are expected to come into public ownership.*

Complete a transportation management plan that addresses traffic patterns, mitigation, visitor accommodations, and drainage system changes for potential management plans. *Explanation: A transportation management plan for the Headwaters Reserve will be addressed in the EIS/EIR. Mitigation will be provided if transportation impacts become significant.*

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Analyze the adequacy of the funding mitigation and monitoring measures in the HCP that account for inflation, depreciation of assets, and increased real estate values to support the conclusions reached. *Explanation: This issue will not be specifically addressed in the EIS/EIR, but will be addressed in the HCP and agency's permit decision document.*

Comment suggested an HCP developed for private land should not have to rely on public lands for the continued existence of listed species. Comment suggested that PALCO should not receive credit for selling land. *Explanation: The EIS/EIR will assess the overall impacts of take by taking into consideration species population status and habitat conditions on lands supporting local and regional populations, however, the issue of whether an HCP developed for private land should not have to rely on public lands for the continued existence of listed species is a policy issue outside the scope of the EIS/EIR impact analysis.*

#### **4.10.5 Funding**

##### **Specific issues to be addressed further in the EIS/EIR**

The federal government is unable to manage the land they already have and there should be no more public funding for additional land management. *Explanation: Comment will be addressed in the EIS/EIR when describing whether or not the federal government can financially support the final decisions (e.g., management of the Reserve).*



Ensure PALCO will pay for continued mitigation for the entire 120 years.

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Comment suggested that if Charles Hurwitz cannot pay for his savings and loan debts, how will he be able to pay for sustainable forestry, including mitigation restoration costs for streams and wildlife habitat.

*Explanation: This is a permit issuance item that will be addressed in the permit decision document, but is not within the scope of the EIS/EIR.*

*Explanation: The following comments are not related to environmental impacts associated with the proposed actions but reflect some opinions pertaining to some public policy issues. As such, these issues are outside the scope of the EIS/EIR impact analysis:*

- The government cannot justify the price nor the policy of public funding of the Reserve.
- Evaluate the availability of federal and state funds to meet any future mitigation requirements for species covered under the HCP.
- Comment suggested there should be no taxpayer cost of restoration.
- Taxpayers should not pay for costs of PALCO mitigation.
- Public land and assets should not be used to pay for mitigation from private logging activities.
- Address government subsidization for restoration of all watershed habitats on PALCO lands as a method of ensuring restoration will occur.

### **4.11 OTHER ELEMENTS**

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Evaluate the legality of Forest Service land exchange with no Forest Service authority (Weeks Act).

*Explanation: Legal questions such as the above are not associated with environmental impacts and thus, are outside the scope of the EIS/EIR.*

##### **4.11.1 Private Property Rights**

#### **Specific issues not selected for detailed analysis in the EIS/EIR**

Comments support the Agreement as it allows for sustained harvest and recognizes the importance of private and personal property rights. PALCO's right to do what they will with their own private property must be protected.

Analyze the impacts to adjacent landowners from implementation of the ESA.

Analyze impacts to residents and commercial, ranch, and timber interests from not being able to use their lands any way they want if endangered species home ranges overlap adjacent land or if species require adjacent land for access to the Reserve.

*Explanation: While the EIS/EIR will address impacts to environmental resources in the project area and adjacent properties within the project's sphere of influence, issues pertaining to private property rights and allowable land uses are outside the scope of the environmental analysis in the EIR/EIS.*

#### 4.12 PUBLIC INVOLVEMENT

As mentioned in Section 3, notice of the public meeting and notice of the intent to prepare this joint EIS/EIR were published in the Federal Register on December 27, 1996. A subsequent Federal Register notice announcing an additional February 11, 1997, scoping meeting was published on January 9, 1997. Six scoping meetings were held throughout California during the period of January 16, through February 11, 1997, to receive public comments on all aspects of the proposal. Hundreds of oral comments and thousands of written comments on this proposed project were received from the public.

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

*Explanation: The following issues concern public participation policy and associated legal issues. Public participation policy and legal questions are not within the scope of the EIS/EIR environmental impact analyses.*

- Address the lack of public participation during the negotiations. Scoping process should have come before the Agreement. There should be more public knowledge of how the Agreement was reached. *Explanation: There are no public participation requirements governing negotiations between government agencies and private parties.*
- Comment suggested there was inadequate notice of the scoping meeting and therefore, a violation of the due process, as indicated in *Matthews v. Eldredge*, U.S. Supreme Court. The agreement is legally unenforceable as one party (PALCO) has control over the satisfaction condition. *Explanation: The public notification and scoping process was conducted consistent with all the applicable requirements under NEPA and CEQA.*
- Comment suggested that Native American participation and approval of all plans is required. *Explanation: The Federal and State agencies have sole authority for SYP approval and issuance of the incidental take permit and other management authorizations.*
- Comments suggested that the scoping process should be better explained and scheduled to improve public participation. *Explanation: The public notification and scoping process conducted consistent with all the applicable requirements under NEPA and CEQA, however, the agencies regret any confusion these public involvement processes may have caused.*
- Comment suggested that the public should not be prevented from bringing lawsuits against Hurwitz or PALCO as stated in the Agreement, for environmental degradation, or failure to honor provisions in SYP and HCP. *Explanation: The Agreement makes no statements about the ability of private parties to bring legal action.*
- Suggestion was made that overhead projectors, wall maps, handouts, and a workshop forum with information tables would have been helpful. Scoping documents should fully describe the Agreement, the process, the timeframe and method for participation. *Explanation: These*

*recommendations are consistent with this scoping report and the EIS/EIR public involvement plans.*

#### **4.12.1 Peer Review**

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

Consider that the public cannot suggest or analyze specific alternatives or fully scope issues to be addressed because there has been a restricted information flow to the public in the form of (1) no public review of the HCP and ITP, (2) restricted public review of data (number of mm-relets, spotted owls, etc.), (3) limited public access to the Draft SYP, and (4) an adequate project description has not been provided. *Explanation: Since these issues do not relate to environmental impacts, they are outside the scope of the EIS/EIR. However, all of these issues will be addressed through the public participation processes required under NEPA, CEQA, ESA, and California Forest Practice Rules.*

Comments suggested that there should be no restriction on citizen participation in environmental or judicial review of the project. *Explanation: There is no restriction on citizen review of the Draft or final EIS/EIR, nor the SYP or HCP released for public review.*

Comment suggested there should be public disclosure of cost-accounting procedures. *Explanation: Existing statutes require public disclosure of the environmental effects of contemplated agency actions but presently there no requirements for public disclosure of cost-accounting procedures associated with approval of an SYP or issuance of an incidental take permit. Whether there should be such a process is a policy issue outside the scope of the EIS/EIR..*

#### **4.12.2 Public Comment Period**

##### **Specific issues not selected for detailed analysis in the EIS/EIR**

*Explanation: The following are issues unrelated to environmental impacts and thus, will not be addressed in the EIS/EIR. However, all of this comments will be considered as the project's public involvement process continues.*

- Public comment period and data collection periods are too short for adequate public involvement and scientific review.
- Public and agencies request extension of EIS/EIR process to allow time for better data collection.
- Time period for acceptance of public comments is too short.
- Time period allowed of 2 to 3 minutes for oral comments presentations at scoping meetings was inadequate.
- After the Draft HCP is available, additional scoping hearings should be held and additional time allowed for scoping comments to be submitted.

#### **4.13 AGENCY COMMENTS**

**Specific issues to be addressed further in the EIS/EIR**

US. Environmental Protection Agency. Region IX- Address specific issues regarding water quality, water quality standards, air quality, regional species population viability, aquatic resources, adequate and sound science, subsequent environmental reviews, funding and administration of the proposed HCP and Headwaters-Elk Head Reserve Management Plan, and environmental justice issues.

California Regional Water Quality Control Board- Address specific issues regarding the adequacy of the watershed assessment contained in the proposed SYP including risk factors, disturbance index, watercourse resources, stream particle sizes, stream temperature, instream practices, and WLPZ burning.

California Department of Fish and Game- Address the generation and containment of fine sediment which could enter watercourses; logging truck traffic disturbance of endangered species; changes in habitat for wildlife species or guilds over time; effects of broadcast burning, herbicide application, and rodent control; water quality effects; consultation and conservation planning for endangered species; and the significance of harvesting old-growth forest stands occupied by listed species.